

## 2005 DRAFTING REQUEST

### Bill

Received: 03/28/2005

Received By: pkahler

Wanted: As time permits

Identical to LRB:

For: Robin Vos (608) 266-9171

By/Representing: Joyce Kiel

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters:

Subject: Insurance - health

Extra Copies: Joyce Kiel - by email

Submit via email: YES

Requester's email: Rep.Vos@legis.state.wi.us

Carbon copy (CC:) to: joyce.kiel@legis.state.wi.us

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### Pre Topic:

No specific pre topic given

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### Topic:

Authorization for self-funded employer health insurance groups

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### Instructions:

See Attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 03/31/2005	wjackson 04/12/2005		_____			State
/1			jfrantze 04/13/2005	_____	lemery 04/13/2005		State
/2	pkahler 05/17/2005	wjackson 05/17/2005	rschluet 05/18/2005	_____	lnorthro 05/18/2005	sbasford 07/21/2005	

FE Sent For:

**<END>**

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Authorization for self-funded employer health insurance groups

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/?	pkahler	1/1 wlj 4/12	6/1/12	6/1/12			

FE Sent For:

<END>

Pam - See changes marked -  
please prepare a preliminary bill draft  
for representative Vos based on these changes.

2003 - 2004 LEGISLATURE

LRB-4149/1

PJK:wjl:rs

Please let me know if you have questions.  
Also, please send me a copy of the bill draft when  
you send it to Rep. Vos.

## 2003 ASSEMBLY BILL 814

3/23/05

Thanks, Joyce Kief  
Leg. Council

February 5, 2004 - Introduced by Representatives LADWIG, WEBER, GOTTLIEB, GIELOW, HONADEL, JENSEN, MONTGOMERY, VUKMIR, ALBERS, BIES, GUNDERSON, HAHN, HINES, HUNDERTMARK, KAUFERT, KREIBICH, M. LEHMAN, LEMAHIEU, MCCORMICK, MUSSER, NISCHKE, PETTIS, STONE, TOWNSEND, VAN ROY, M. WILLIAMS, J. WOOD and GARD, cosponsored by Senator DARLING. Referred to Committee on Insurance.

- 1 AN ACT *to create* 146.92 and 601.415 (8) of the statutes; **relating to:** self-funded
- 2 employer groups for providing health care coverage.

---

### ***Analysis by the Legislative Reference Bureau***

This bill authorizes the formation of three employer groups each for the purpose of establishing and administering a health care benefit arrangement for providing, on a self-funded basis, health care benefits to the employees of the employers that participate in each employer group. Two or more employers that are members of the same chamber of commerce may form an employer group and other employers that are members of that same chamber of commerce may elect to participate in the employer group that is formed. An employer that participates must offer to cover all of its employees who have a normal work week of at least 30 hours, and their dependents, and, generally, may not discontinue participation before the employer group terminates.

Each employer group will determine all matters necessary for the operation of its health care benefit arrangement, which may operate for no longer than five years. An employer group may not provide more than \$50,000 in benefits to a covered person per year on a self-funded basis and must obtain stop-loss coverage. Each health care benefit arrangement must provide the same benefits for all employers participating in the employer group, but the contributions paid by participating employers for self-funding purposes and for purchasing stop-loss coverage do not have to be the same. Both the employer groups and the health care benefit arrangements are exempt from all requirements under the insurance statutes. The employer groups may not be considered insurers, and the health care benefit

**ASSEMBLY BILL 814**

arrangements may not be considered insurance contracts, for any purpose under the statutes.

Each employer group must annually submit to the Commissioner of Insurance (commissioner) and to the appropriate standing committees of the legislature a report that contains information about the employers participating, the covered employees and dependents, the benefits offered, and the claims paid. The Legislative Audit Bureau is required to conduct a performance audit of each employer group and its health care benefit arrangement and to prepare a report on each for distribution to the appropriate standing committees of the legislature.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 146.92 of the statutes is created to read:

2       **146.92 Self-funded employer groups. (1) DEFINITIONS.** In this section:

3       (a) "Eligible employee" means an employee who works on a permanent basis  
4       and has a normal work week of 30 or more hours. The term includes a sole proprietor,  
5       a business owner, including the owner of a farm business, a partner of a partnership,  
6       and a member of a limited liability company if the sole proprietor, business owner,  
7       partner, or member is included as an employee under the health care benefit  
8       arrangement under this section, but the term does not include an employee who  
9       works on a temporary or substitute basis.

10       (b) "Eligible employers" means employers that are members of the same  
11       chamber of commerce.

12       **(2) FORMATION, ELIGIBILITY, AND QUALIFICATION.** (a) ~~No later than January 1,~~  
13       ~~2006~~ <sup>two</sup> or more eligible employers may form an employer group to establish and  
14       administer an employee health care benefit arrangement for the joint provision of  
15       health care benefits on a self-funded basis to their eligible employees, the eligible



## ASSEMBLY BILL 814

1 employees of other eligible employers that elect to participate in the employer group,  
2 and the dependents of those eligible employees.

3 ~~(b) 1. The eligible employers forming the employer group shall specify a date~~  
4 ~~by which other eligible employers must elect to participate in the employer group or~~  
5 ~~be foreclosed from participating.~~ All eligible employers that elect to participate by

6 ~~the date specified and that meet any requirements established under sub. (5) (d)~~  
7 ~~shall be allowed to participate in the employer group.~~ *True*  
*move to p. 5, line 14* *if the employer timely makes the required contributions*

8 ~~2. Notwithstanding subd. 1., an employer that is a new business starting up~~  
9 ~~after the date specified in subd. 1., that becomes a member of the same chamber of~~  
10 ~~commerce after that date, that elects to participate by a later date that the employer~~  
11 ~~group establishes for the new business to make the election, and that meets any~~  
12 ~~requirements established under sub. (5) (d) shall be allowed to participate in the~~  
13 ~~employer group.~~

14 (c) No more than ~~3~~<sup>5</sup> employer groups may be formed under par. (a), and no more  
15 than one employer group may be composed of employers that are members of any one  
16 chamber of commerce. The first ~~3~~<sup>5</sup> employer groups that provide evidence to the  
17 commissioner of insurance that they have formed and are in compliance with the  
18 requirements under this section shall qualify to participate in the project under this  
19 section. The commissioner of insurance shall provide notice in the Wisconsin  
20 administrative register when ~~3~~<sup>5</sup> employer groups have qualified under this  
21 paragraph. The notice shall list the groups and the dates on which each provided the  
22 necessary evidence of compliance.

23 (d) ~~1. Except as provided in subd. 2., an employer group may operate and~~  
24 ~~provide benefits under its employee health care benefit arrangement established~~  
25 ~~under this section for no longer than 5 years.~~

## ASSEMBLY BILL 814

## SECTION 1

1 (d) ~~After~~ <sup>If an</sup> the employer group <sup>has</sup> ceased operating its employee health care  
2 benefit arrangement, it shall continue to be responsible for paying eligible claims  
3 that were incurred during the time in which the employee health care benefit  
4 arrangement was operating.

5 (3) EMPLOYER REQUIREMENTS. (a) An employer that participates in an employer  
6 group under this section shall be required to offer health care benefits under the  
7 employee health care benefit arrangement to all of the employer's eligible employees  
8 and all of the eligible employees' dependents, as defined by the employer group under  
9 sub. (5) (b), and may not offer any other health care benefits to its eligible employees  
10 or their dependents. *The health care benefits shall include — Plan include all mandated  
insurance coverages.*

11 (b) An employer that elects to participate in an employer group under this  
12 section shall be required to participate <sup>for</sup> ~~until the~~ <sup>minimum participation period specified by the</sup> employer group terminates. To  
13 ensure participation, an employer group may require all employers that elect to <sup>which may not be less than</sup>  
14 participate to pay, at the commencement of participation, an amount that will be <sup>2 years.</sup>  
15 forfeited to the employer group if the employer discontinues its participation before  
16 <sup>specified minimum participation period ends</sup> ~~the employer group terminates~~. In addition, any employer that discontinues  
17 participation before the <sup>minimum participation period ends</sup> ~~employer group terminates~~ shall be responsible for the  
18 employer's proportionate share of the cost of any eligible claims payable by the  
19 employer group that were incurred before the employer discontinued participation.

20 (4) COVERAGE. (a) Each employer group shall pay no more than \$50,000 in  
21 benefits on a self-funded basis in a calendar year for each person covered under its  
22 employee health care benefit arrangement. Each employer group shall obtain excess  
23 or stop-loss coverage through an insurer authorized to do business in this state in  
24 an amount that is sufficient to pay eligible claims that exceed the amount that the  
25 employer group will pay on a self-funded basis per person in a calendar year.

as to the amount that will be sufficient to  
~~also~~ fund the employee health care benefit  
 arrangement ~~and~~ fund the reserve account.

1 (b) An employer group shall provide the same, uniform health care benefits for  
 2 each employer that participates in that employer group.

3 (5) ADMINISTRATION. (a) Each employer group shall determine all matters  
 4 necessary for the administration and operation of its employee health care benefit  
 5 arrangement.

6 (b) Each employer group shall define who is a dependent for purposes of  
 7 coverage under its employee health care benefit arrangement.

8 (c) Each employer group shall determine the amounts that eligible employers  
 9 participating in the employer group must contribute for self-funding the employee  
 10 health care benefit arrangement, for paying administrative expenses, ~~and~~ for  
 11 purchasing excess or stop-loss coverage. The contribution amounts may vary from  
 12 employer to employer based on criteria developed by the employer group.

13 (d) An employer group may specify minimum participation requirements that  
 14 an eligible employer must satisfy for participation in the employer group.

15 (e) Notwithstanding sub. (3) (b), an employer group may specify circumstances  
 16 under which a participating employer may discontinue participation in the employer  
 17 group before the termination of the employer group without forfeiting all or a portion  
 18 of the amount paid by the employer under sub. (3) (b).

19 (6) REPORTS. (a) Annually, each employer group shall prepare and submit to  
 20 the commissioner of insurance and to the chief clerk of each house of the legislature  
 21 for distribution to the appropriate standing committees under s. 13.172 (3) a report,  
 22 which shall be due 2 months after the anniversary of the date on which the employer  
 23 group began operation, that includes all of the following information for the  
 24 reporting period:

25 1. The number of employers participating in the employer group.

Future contributions shall be  
 at the rate determined  
 by the actuary to maintain  
 full funding of the reserve account.

Insertion  
 to 3.11.05

participating employers to make contributions for  
 the reserve fund in an amount that the  
 actuary determines will fully fund the reserve account  
 and the reserve account is funded

Create (4m) An employer group shall establish a reserve account  
 which shall be used to pay eligible claims if the funds available for that purpose  
 are insufficient. The purpose of the reserve account is to protect employees if  
 contributions are not sufficient to make required contributions. The employer group shall require

**ASSEMBLY BILL 814****SECTION 1**

1        2. The number of employees that each participating employer has.

2        3. The number of employees and dependents covered under the employer  
3 group's health care benefit arrangement and the age and sex of each covered  
4 employee and dependent.

5        4. A brief description of the benefits that are provided under the health care  
6 benefit arrangement.

7        5. The total contributions paid by participating employers, the contribution  
8 amount used for self-funding the health care benefit arrangement, the contribution  
9 amount used for paying administrative expenses, and the contribution amount used  
10 for purchasing excess or stop-loss coverage.

11       6. The criteria upon which the employer contribution amounts were based.

12       7. The amount that has been paid out in benefits under the employee health  
13 care benefit arrangement on a self-funded basis and under the excess or stop-loss  
14 coverage.

15       8. The type of health care coverage, if any, provided by each participating  
16 employer during the 2-year period before the employer's participation in the  
17 employer group and the cost of that health care coverage, including both employer  
18 and employee costs.

19       9. The number of employers that discontinued participation in the previous  
20 year, if any, the reason for each discontinued participation, and the penalty imposed  
21 on each.

22       (b) The legislative audit bureau shall conduct a performance evaluation audit  
23 of each employer group formed under this section and of its employee health care  
24 benefit arrangement. The bureau shall be allowed access to all records of each  
25 employer group that may be relevant for this purpose but may not use or maintain

**ASSEMBLY BILL 814****SECTION 1**

1 any personally identifying information contained in the records. Within 6 months  
2 after an employer group submits its 2nd annual report under par. (a), the bureau  
3 shall submit copies of its audit report for that employer group to the chief clerk of  
4 each house of the legislature for distribution to the appropriate standing committees  
5 under s. 13.172 (3).

6 **(7) EXEMPTION FROM INSURANCE REGULATION.** Notwithstanding 29 USC 1144 (b)  
7 *but subject to sub. (3)(b)*  
8 (6) (A), chs. 600 to 645 and any rules promulgated under chs. 600 to 645 do not apply  
9 to an employer group, or to an employee health care benefit arrangement, under this  
10 section. An employer group shall not be considered an insurer, and an employee  
11 health care benefit arrangement shall not be considered an insurance contract, for  
12 any purpose under the statutes.

12 **SECTION 2.** 601.415 (8) of the statutes is created to read:

13 601.415 **(8) EMPLOYER GROUP QUALIFICATION.** Notwithstanding s. 146.92 (7), the  
14 commissioner shall perform the duties required under s. 146.92 (2) (c) related to the  
15 qualification of employer groups for the project under s. 146.92.

16 (END)

results from a  
meeting w/ Joyce Kiel

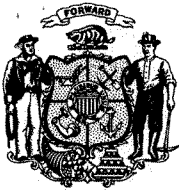
3-30

drop the Reserve account provision  
(does not really add any ~~to~~ more  
security than assessing when  
necessary)

require employ group to designate an agent for service  
of process - at least someone  
to serve if group stops  
operating

add specific language about an employer's participation  
being terminated if doesn't pay all  
required contributions

add language similar to s. 612.54 to make clear -  
authorize - employ group to  
assess employers when necessary -  
and may establish a surplus account



State of Wisconsin  
2003 - 2004 LEGISLATURE  
2005 - 2006

2569/P1  
LRB-4149/1  
PJK:wj:rs  
WJ

SOON

2005  
2003 ASSEMBLY BILL 814

LPS: Please  
PNF

February 5, 2004 - Introduced by Representatives LADWIG, WEBER, GOTTLIEB, GIELOW, HONADEL, JENSEN, MONTGOMERY, VUKMIR, ALBERS, BIES, GUNDERSON, HAHN, HINES, HUNDERTMARK, KAUFERT, KREIBICH, M. LEHMAN, LEMAHIEU, MCCORMICK, MUSSER, NISCHKE, PETTIS, STONE, TOWNSEND, VAN ROY, M. WILLIAMS, J. WOOD and GARD, cosponsored by Senator DARLING. Referred to Committee on Insurance.

- Regan
- 1 AN ACT to create 146.92 and 601.415 (8) of the statutes; relating to: self-funded
- 2 employer groups for providing health care coverage.

Analysis by the Legislative Reference Bureau

Insert A-1 ✓

This bill authorizes the formation of ~~three~~ <sup>up to five</sup> employer groups, each for the purpose of establishing and administering a health care benefit arrangement for providing, on a self-funded basis, health care benefits to the employees of the employers that participate in each employer group. Two or more employers that are members of the same chamber of commerce may form an employer group, and other employers that <sup>is a</sup> are members of that same chamber of commerce may elect to participate in the employer group that is formed. An employer that participates must offer to cover all of its employees who have a normal work week of at least 30 hours, and their dependents, and, generally, may not discontinue participation before the employer group terminates. Insert A-2 ✓

Each employer group will determine all matters necessary for the operation of its health care benefit arrangement, ~~which may operate for no longer than five years~~. An employer group may not provide more than \$50,000 in benefits to a covered person per year on a self-funded basis and must obtain stop-loss coverage. Each health care benefit arrangement must provide the same benefits for all employers participating in the employer group, but the contributions paid by participating employers for self-funding purposes and for purchasing stop-loss coverage do not have to be the same. Both the employer groups and the health care benefit arrangements are exempt from all requirements under the insurance statutes. The employer groups may not be considered insurers, and the health care benefit

Insert A-3 ✓

excess or

Insert A-4 ✓

**ASSEMBLY BILL 814**

arrangements may not be considered insurance contracts, for any purpose under the statutes.

Each employer group must annually submit to the Commissioner of Insurance (commissioner) and to the appropriate standing committees of the legislature a report that contains information about the employers participating, the covered employees and dependents, the benefits offered, and the claims paid. The Legislative Audit Bureau is required to conduct a performance audit of each employer group and its health care benefit arrangement and to prepare a report on each for distribution to the appropriate standing committees of the legislature.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 146.92 of the statutes is created to read:

**146.92 Self-funded employer groups.** (1) DEFINITIONS. In this section:

(a) "Eligible employee" means an employee who works on a permanent basis and has a normal work week of 30 or more hours. The term includes a sole proprietor, a business owner, including the owner of a farm business, a partner of a partnership, and a member of a limited liability company if the sole proprietor, business owner, partner, or member is included as an employee under the health care benefit arrangement under this section, but the term does not include an employee who works on a temporary or substitute basis.

(b) "Eligible employers" means employers that are members of the same chamber of commerce.

(2) FORMATION, ELIGIBILITY, AND QUALIFICATION. (a) No later than January 1,

2006, <sup>Two</sup> 2 or more eligible employers may form an employer group to establish and administer an employee health care benefit arrangement for the joint provision of health care benefits on a self-funded basis to their eligible employees, the eligible



## ASSEMBLY BILL 814

1 employees of other eligible employers <sup>participating</sup> that elect to participate in the employer group,  
2 and the dependents of those eligible employees.

3 (b) 1. The eligible employers forming the employer group shall specify a date  
4 by which other eligible employers must elect to participate in the employer group or  
5 be foreclosed from participating. All eligible employers that elect to participate by  
6 ~~the date specified and that meet any requirements established under sub. (5) (d)~~<sup>these</sup>  
7 shall be allowed to participate in the employer group.

8 2. Notwithstanding subd. 1., an employer that is a new business starting up  
9 after the date specified in subd. 1., that becomes a member of the same chamber of  
10 commerce after that date, that elects to participate by a later date that the employer  
11 group establishes for the new business to make the election, and that meets any  
12 requirements established under sub. (5) (d) shall be allowed to participate in the  
13 employer group.

14 ~~(c)~~<sup>5</sup> No more than 3 employer groups may be formed under par. (a), and no more  
15 than one employer group may be composed of employers that are members of any one  
16 chamber of commerce. The first 3 <sup>5</sup> employer groups that provide evidence to the  
17 commissioner of insurance that they have formed and are in compliance with the  
18 requirements under this section shall qualify to participate in the project under this  
19 section. The commissioner of insurance shall provide notice in the Wisconsin  
20 administrative register when 3 <sup>5</sup> employer groups have qualified under this  
21 paragraph. The notice shall list the groups and the dates on which each provided the  
22 necessary evidence of compliance.

23 (d) 1. Except as provided in subd. 2., an employer group may operate and  
24 provide benefits under its employee health care benefit arrangement established  
25 under this section for no longer than 5 years.

## ASSEMBLY BILL 814

*Insert 5-2B (move to p. 5)*

(d) *self an*  
 2. After the employer group ~~has ceased~~ *ceases* operating its employee health care benefit arrangement, it shall continue to be responsible for paying eligible claims that were incurred during the time in which the employee health care benefit arrangement was operating.

(3) EMPLOYER REQUIREMENTS. (a) An employer that participates in an employer group under this section shall be required to offer health care benefits under the employee health care benefit arrangement to all of the employer's eligible employees and all of the eligible employees' dependents, as defined by the employer group under sub. (5) *dv* (b), and may not offer any other health care benefits to its eligible employees or their dependents.

(b) An employer that ~~elects to~~ *desire* participate in an employer group under this section shall be required to participate until the employer group terminates. To ensure participation *for at least that period* an employer group may require all employers that ~~elect~~ *desire* to participate to pay, at the commencement of participation, an amount that will be forfeited to the employer group if the ~~employer discontinues its participation~~ *employees* before the employer group terminates. In addition, any employer *whose* that ~~discontinues~~ *insert 4-16* participation *insert 4-16* before the employer group terminates shall be responsible for the employer's proportionate share of the cost of any eligible claims payable by the employer group that were incurred before the ~~employer discontinued~~ *employees* participation.

*terminates voluntarily or involuntarily*

*Insert 4-19*

(4) COVERAGE. (a) Each employer group shall pay no more than \$50,000 in benefits on a self-funded basis in a calendar year for each person covered under its employee health care benefit arrangement. Each employer group shall obtain excess or stop-loss coverage through an insurer authorized to do business in this state in an amount that is sufficient to pay eligible claims that exceed the amount that the employer group will pay on a self-funded basis per person in a calendar year.

*terminated*

*CS*  
 PAYMENT OF CLAIMS

## ASSEMBLY BILL 814

1 (b) An employer group shall provide the same, uniform health care benefits for  
2 each employer that participates in that employer group.

3 (5) ADMINISTRATION. (a) Each employer group shall determine all matters  
4 necessary for the administration and operation of its employee health care benefit  
5 arrangement.

6 (b) Each employer group shall define who is a dependent for purposes of  
7 coverage under its employee health care benefit arrangement.

8 (c) Each employer group shall determine the amounts that eligible employers  
9 participating in the employer group must contribute for self-funding the employee  
10 health care benefit arrangement, for paying administrative expenses, and for  
11 purchasing excess or stop-loss coverage. The contribution amounts may vary from  
12 employer to employer based on criteria developed by the employer group.

13 (d) An employer group may specify minimum participation requirements that  
14 an eligible employer must satisfy for participation in the employer group.

15 (e) Notwithstanding sub. (3) (b), an employer group may specify circumstances  
16 under which a participating employer may discontinue participation in the employer  
17 group before the termination of the employer group without forfeiting all or a portion  
18 of the amount paid by the employer under sub. (3) (b).

19 (6) REPORTS. (a) Annually, each employer group shall prepare and submit to  
20 the commissioner of insurance and to the chief clerk of each house of the legislature  
21 for distribution to the appropriate standing committees under s. 13.172 (3) a report,  
22 which shall be due 2 months after the anniversary of the date on which the employer  
23 group began operation, that includes all of the following information for the  
24 reporting period:

25 1. The number of employers participating in the employer group.

including the actuarial compensations

Insert 5-2A

Insert 5-2B

Insert 5-5

Insert 5-15

Insert 5-12

Insert 5-14

Insert 4-16

**ASSEMBLY BILL 814****SECTION 1**

1           2. The number of employees that each participating employer has.

2           3. The number of employees and dependents covered under the employer  
3 group's health care benefit arrangement and the age and sex of each covered  
4 employee and dependent.

5           4. A brief description of the benefits that are provided under the health care  
6 benefit arrangement.

7           5. The total contributions paid by participating employers, the contribution  
8 amount used for self-funding the health care benefit arrangement, the contribution  
9 amount used for paying administrative expenses, and the contribution amount used  
10 for purchasing excess or stop-loss coverage.

11           6. The criteria upon which the employer contribution amounts were based.

12           7. The amount that has been paid out in benefits under the employee health  
13 care benefit arrangement on a self-funded basis and under the excess or stop-loss  
14 coverage.

15           8. The type of health care coverage, if any, provided by each participating  
16 employer during the 2-year period before the employer's participation in the  
17 employer group and the cost of that health care coverage, including both employer  
18 and employee costs.

19           9. The number of employers that discontinued participation in the previous  
20 year, if any, the reason for each discontinued participation, and the penalty imposed  
21 on each.

22           (b) The legislative audit bureau shall conduct a performance evaluation audit  
23 of each employer group formed under this section and of its employee health care  
24 benefit arrangement. The bureau shall be allowed access to all records of each  
25 employer group that may be relevant for this purpose but may not use or maintain

## ASSEMBLY BILL 814

1 any personally identifying information contained in the records. Within 6 months  
2 after an employer group submits its 2nd annual report under par. (a), the bureau  
3 shall submit copies of its audit report for that employer group to the chief clerk of  
4 each house of the legislature for distribution to the appropriate standing committees  
5 under s. 13.172 (3).

6 (3) ~~(7)~~ EXEMPTION FROM INSURANCE REGULATION. Notwithstanding 29 USC 1144 (b)  
7 (6) (A), *except as provided in sub (4) (c)* chs. 600 to 645 and any rules promulgated under chs. 600 to 645 do not apply  
8 to an employer group, or to an employee health care benefit arrangement, under this  
9 section. An employer group shall not be considered an insurer, and an employee  
10 health care benefit arrangement shall not be considered an insurance contract, for  
11 any purpose under the statutes.

12 SECTION 2. 601.415 (8) of the statutes is created to read:

13 601.415 (8) EMPLOYER GROUP QUALIFICATION. Notwithstanding s. 146.92 (7), the  
14 commissioner shall perform the duties required under s. 146.92 (2) (c) *b* related to the  
15 qualification of employer groups for the project under s. 146.92. *b*

16 (END)

2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2569/ins  
PI  
PJK:.....

INSERT A-1

not, that satisfies any minimum participation requirements established by the employer group, and that makes all required contributions

(END OF INSERT A-1)

INSERT A-2

not end of the minimum participation period established by the employer group, which may not be less than two years

(END OF INSERT A-2)

INSERT A-3

not and must employ or contract with an actuary to make recommendations on the amounts of contributions required to fund the health care benefit arrangement

(END OF INSERT A-3)

INSERT A-4

not, except that every health care benefit arrangement must comply with every health insurance mandate under the statutes. (The health insurance mandates, generally, require coverage of certain conditions and treatments and coverage of the services of certain providers.)

(END OF INSERT A-4)

INSERT 4-12

- 1 not for at least the minimum participation period specified by the employer group  
2 under sub. (5) (g) ✓

(END OF INSERT 4-12)

INSERT 4-16

three times  
(use three times)

- 3 not employer's minimum participation period ends

(END OF INSERT 4-16)

INSERT 4-19



*Insert 4-19*

1 (c) An employer's participation shall be terminated if the employer fails to pay  
2 any contribution required by the employer group under sub. (5) (e).

(END OF INSERT 4-19)

**INSERT 5-2A**

3 (c) Every employee health care benefit arrangement under this section shall  
4 comply with every health insurance mandate, as defined in s. 601.423.

(END OF INSERT 5-2A)

**INSERT 5-2B**

5 (See page 4, lines 1 to 4, of the draft.)

(END OF INSERT 5-2B)

**INSERT 5-5**

6 (b) Each employer group shall designate an agent for service of process, notice,  
7 or demand.

8 (c) Each employer group shall employ or contract with an actuary to make  
9 recommendations, in accordance with generally accepted actuarial principles, as to  
10 the amounts that will be sufficient to fund its employee health care benefit  
11 arrangement.

(END OF INSERT 5-5)

**INSERT 5-12**

12 *not* An employer group may require contributions for establishing a surplus and  
13 may levy assessments whenever the amount of any loss or expense that is due  
14 exceeds the assets or whenever any required surplus is impaired.

(END OF INSERT 5-12)

**INSERT 5-14**

*↓*

1 <sup>not</sup> Subject to sub. (3) (c), all eligible employers that meet these requirements shall  
2 be allowed to participate in the employer group.

(END OF INSERT 5-14)

**INSERT 5-15**

3 <sup>g</sup> (f) Each employer group shall specify a minimum participation period, which  
4 may not be less than 2 years and which shall be the same length for each employer  
5 participating in the employer group.

(END OF INSERT 5-15)



**Kahler, Pam**

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**From:** Kiel, Joyce  
**Sent:** Tuesday, May 17, 2005 8:25 AM  
**To:** Kahler, Pam  
**Cc:** Hale, Janine; Rep.Vos  
**Subject:** Request for revision to LRB-2569/1

Pam:

Please prepare a /2 for Rep. Vos that includes the following changes:

1. As you already noted, page 3, line 23, should refer to the "employer's" participation, rather than the "employee's" participation.
2. Section 146.92 (3) (c) (page 3, lines 4 and 5) states that an employer's participation must be terminated if the employer fails to make any required contribution. To permit an employer group that is willing to do so to provide some sort of grace period for a late contribution and not immediately terminate the employer, please modify this to state something like: "Subject to the employer group's policy regarding late payments, if any, an employer's participation shall be terminated if the employer fails to pay any contribution required by the employer group under sub. (5) (c)."
3. Expand s. 146.92 (3) (c) to state that if an employer's participation is terminated for failure to pay required contributions, the employer is responsible for the amount of the contribution required during the period of participation, including the employer's proportionate share of the cost of any eligible claims payable by the employer group that were incurred before the employer's participation was terminated. (This language is in s. 146.92 (3) (b), but that is limited to dropping out before the minimum participation period ends.)

If you have any questions, please let me know. Also, please send a copy of the draft to me when it is sent to Rep. Vos.

Thanks,

Joyce L. Kiel, Senior Staff Attorney  
Wisconsin Legislative Council Staff  
Suite 401, One East Main Street  
Madison, WI 53703  
608-266-3137  
608-266-3830 (fax)  
Joyce.Kiel@legis.state.wi.us



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-2569/1

PJK:wlj:jt

2  
v mis run

2005 BILL

D - wife

Other

Regen

- 1 AN ACT <sup>Regen</sup>to create 146.92 and 601.415 (8) of the statutes; relating to: self-funded  
2 employer groups for providing health care coverage.

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*Analysis by the Legislative Reference Bureau*

This bill authorizes the formation of up to five employer groups, each for the purpose of establishing and administering a health care benefit arrangement for providing, on a self-funded basis, health care benefits to the employees of the employers that participate in each employer group. Two or more employers that are members of the same chamber of commerce may form an employer group, and any other employer that is a member of that same chamber of commerce, that satisfies any minimum participation requirements established by the employer group, and that makes all required contributions may participate in the employer group that is formed. An employer that participates must offer to cover all of its employees who have a normal work week of at least 30 hours, and their dependents, and, generally, may not discontinue participation before the end of the minimum participation period established by the employer group, which may not be less than two years.

Each employer group will determine all matters necessary for the operation of its health care benefit arrangement, and must employ or contract with an actuary to make recommendations on the amounts of contributions required to fund the health care benefit arrangement. An employer group may not provide more than \$50,000 in benefits to a covered person per year on a self-funded basis and must obtain excess or stop-loss coverage. Each health care benefit arrangement must provide the same benefits for all employers participating in the employer group, but the contributions paid by participating employers for self-funding purposes and for purchasing stop-loss coverage do not have to be the same.

**BILL**

Both the employer groups and the health care benefit arrangements are exempt from all requirements under the insurance statutes, except that every health care benefit arrangement must comply with every health insurance mandate under the statutes. (The health insurance mandates, generally, require coverage of certain conditions and treatments and coverage of the services of certain providers.) The employer groups may not be considered insurers, and the health care benefit arrangements may not be considered insurance contracts, for any purpose under the statutes.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 146.92 of the statutes is created to read:

2           **146.92 Self-funded employer groups project.** (1) **DEFINITIONS.** In this  
3 section:

4           (a) "Eligible employee" means an employee who works on a permanent basis  
5 and has a normal work week of 30 or more hours. The term includes a sole proprietor,  
6 a business owner, including the owner of a farm business, a partner of a partnership,  
7 and a member of a limited liability company if the sole proprietor, business owner,  
8 partner, or member is included as an employee under the health care benefit  
9 arrangement under this section, but the term does not include an employee who  
10 works on a temporary or substitute basis.

11           (b) "Eligible employers" means employers that are members of the same  
12 chamber of commerce.

13           **(2) FORMATION OF EMPLOYER GROUPS; QUALIFICATION.** (a) Two or more eligible  
14 employers may form an employer group to establish and administer an employee  
15 health care benefit arrangement for the joint provision of health care benefits on a  
16 self-funded basis to their eligible employees, the eligible employees of other eligible

**BILL**

1 employers participating in the employer group, and the dependents of those eligible  
2 employees.

3 (b) No more than 5 employer groups may be formed under par. (a), and no more  
4 than one employer group may be composed of employers that are members of any one  
5 chamber of commerce. The first 5 employer groups that provide evidence to the  
6 commissioner of insurance that they have formed and are in compliance with the  
7 requirements under this section shall qualify to participate in the project under this  
8 section. The commissioner of insurance shall provide notice in the Wisconsin  
9 administrative register when 5 employer groups have qualified under this  
10 paragraph. The notice shall list the groups and the dates on which each provided the  
11 necessary evidence of compliance.

12 (3) EMPLOYER REQUIREMENTS. (a) An employer that participates in an employer  
13 group under this section shall be required to offer health care benefits under the  
14 employee health care benefit arrangement to all of the employer's eligible employees  
15 and all of the eligible employees' dependents, as defined by the employer group under  
16 sub. (5) (d), and may not offer any other health care benefits to its eligible employees  
17 or their dependents.

18 (b) An employer that participates in an employer group under this section shall  
19 be required to participate for at least the minimum participation period specified by  
20 the employer group under sub. (5) (g). To ensure participation for at least that period,  
21 an employer group may require all employers that desire to participate to pay, at the  
22 commencement of participation, an amount that will be forfeited to the employer  
23 group if the employee's participation terminates voluntarily or involuntarily before  
24 the employer's minimum participation period ends. In addition, any employer whose  
25 participation terminates before the employer's minimum participation period ends

## BILL

## SECTION 1

1 shall be responsible for the employer's proportionate share of the cost of any eligible  
2 claims payable by the employer group that were incurred before the employer's  
3 participation terminated.

4 (c) ~~An~~ employer's participation shall be terminated if the employer fails to pay  
5 any contribution required by the employer group under sub. (5) (e).

6 (4) COVERAGE; PAYMENT OF CLAIMS. (a) Each employer group shall pay no more  
7 than \$50,000 in benefits on a self-funded basis in a calendar year for each person  
8 covered under its employee health care benefit arrangement. Each employer group  
9 shall obtain excess or stop-loss coverage through an insurer authorized to do  
10 business in this state in an amount that is sufficient to pay eligible claims that exceed  
11 the amount that the employer group will pay on a self-funded basis per person in a  
12 calendar year.

13 (b) An employer group shall provide the same, uniform health care benefits for  
14 each employer that participates in that employer group.

15 (c) Every employee health care benefit arrangement under this section shall  
16 comply with every health insurance mandate, as defined in s. 601.423.

17 (d) If an employer group ceases operating its employee health care benefit  
18 arrangement, it shall continue to be responsible for paying eligible claims that were  
19 incurred during the time in which the employee health care benefit arrangement was  
20 operating.

21 (5) ADMINISTRATION. (a) Each employer group shall determine all matters  
22 necessary for the administration and operation of its employee health care benefit  
23 arrangement.

24 (b) Each employer group shall designate an agent for service of process, notice,  
25 or demand.

**BILL**

1           (c) Each employer group shall employ or contract with an actuary to make  
2       recommendations, in accordance with generally accepted actuarial principles, as to  
3       the amounts that will be sufficient to fund its employee health care benefit  
4       arrangement.

5           (d) Each employer group shall define who is a dependent for purposes of  
6       coverage under its employee health care benefit arrangement.

7           (e) Each employer group shall determine, based on the actuary's  
8       recommendations, the amounts that eligible employers participating in the  
9       employer group must contribute for self-funding the employee health care benefit  
10      arrangement, for paying administrative expenses, including the actuary's  
11      compensation, and for purchasing excess or stop-loss coverage. The contribution  
12      amounts may vary from employer to employer based on criteria developed by the  
13      employer group. An employer group may require contributions for establishing a  
14      surplus and may levy assessments whenever the amount of any loss or expense that  
15      is due exceeds the assets or whenever any required surplus is impaired.

16          (f) An employer group may specify minimum participation requirements that  
17      an eligible employer must satisfy for participation in the employer group. Subject  
18      to sub. (3) (c), all eligible employers that meet these requirements shall be allowed  
19      to participate in the employer group.

20          (g) Each employer group shall specify a minimum participation period, which  
21      may not be less than 2 years and which shall be the same length for each employer  
22      participating in the employer group.

23          (h) Notwithstanding sub. (3) (b), an employer group may specify circumstances  
24      under which a participating employer may discontinue participation in the employer

**BILL**

1 group before the employer's minimum participation period ends without forfeiting  
2 all or a portion of the amount paid by the employer under sub. (3) (b).

3 **(6) EXEMPTION FROM INSURANCE REGULATION.** Notwithstanding 29 USC 1144 (b)  
4 (6) (A), except as provided in sub. (4) (c), chs. 600 to 645 and any rules promulgated  
5 under chs. 600 to 645 do not apply to an employer group, or to an employee health  
6 care benefit arrangement, under this section. An employer group shall not be  
7 considered an insurer, and an employee health care benefit arrangement shall not  
8 be considered an insurance contract, for any purpose under the statutes.

9 **SECTION 2.** 601.415 (8) of the statutes is created to read:

10 **601.415 (8) EMPLOYER GROUP QUALIFICATION.** Notwithstanding s. 146.92 (6), the  
11 commissioner shall perform the duties required under s. 146.92 (2) (b) related to the  
12 qualification of employer groups for the project under s. 146.92.


13 **(END)**



**2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2569/2ins  
PJK:wlj:jf

**INSERT 4-4**

1       Subject to the employer group's policy, if any, regarding late payments, an

(END OF INSERT 4-4)

**INSERT 4-5**

2            (d) An employer whose participation terminates voluntarily or involuntarily  
3      shall be responsible for all contribution amounts required during the employer's  
4      period of participation, as well as the employer's proportionate share of the cost of  
5      any eligible claims payable by the employer group that were incurred before the  
6      employer's participation terminated.

(END OF INSERT 4-5)



**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2569/2dn  
PJK:wlj:jf

Instead of adding the suggested language to proposed s. 146.92 (3) (c), I took it out of proposed s. 146.92 (3) (b) and created proposed s. 146.92 (3) (d). It seemed to me that any employer that terminates participation, regardless of the reason, regardless of whether it is voluntary or involuntary, and regardless of whether it is before or after the minimum participation period ends, would have to pay all required contributions and the proportionate share of claims for the period of participation. Let me know if you do not want this requirement.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.state.wi.us

No. 11

You could authorize an employer group to establish exceptions to the requirement, similar to proposed s. 146.92 (5) (h).

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2569/2dn  
PJK:wlj:rs

May 18, 2005

Instead of adding the suggested language to proposed s. 146.92 (3) (c), I took it out of proposed s. 146.92 (3) (b) and created proposed s. 146.92 (3) (d). It seemed to me that any employer that terminates participation, regardless of the reason, regardless of whether it is voluntary or involuntary, and regardless of whether it is before or after the minimum participation period ends, would have to pay all required contributions and the proportionate share of claims for the period of participation. Let me know if you do not want this requirement. You could authorize an employer group to establish exceptions to the requirement, similar to proposed s. 146.92 (5) (h).

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.state.wi.us](mailto:pam.kahler@legis.state.wi.us)

**Basford, Sarah**

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**From:** Hale, Janine  
**Sent:** Thursday, July 21, 2005 12:32 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-2569/2 Topic: Authorization for self-funded employer health insurance groups

It has been requested by <Hale, Janine> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-2569/2 Topic: Authorization for self-funded employer health insurance groups